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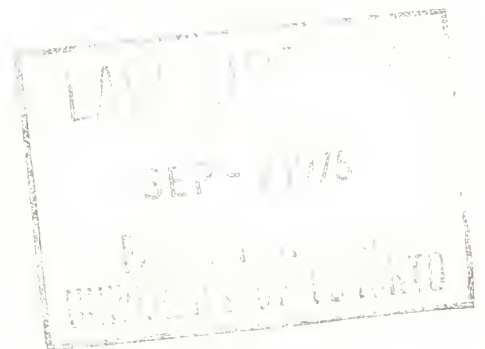
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FACULTY OF LAW  
UNIVERSITY OF TORONTO

MATERIALS ON  
INDUSTRIAL PROPERTY  
AND  
UNFAIR COMPETITION



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1975

FACULTY OF LAW - UNIVERSITY OF TORONTO  
INDUSTRIAL PROPERTY AND UNFAIR COMPETITION

1975 Syllabus

MATERIALS:

Patent Act, R.S.C. 1970, c. P-4, amended 1970-71-72, c. 1  
Copyright Act, R.S.C. 1970, c. C-30, amended 19-20  
Eliz. II, c. 60  
Industrial Design Act, R.S.C. 1970, c. I-8  
Trade Marks Act, R.S.C. 1970, c. T-10

A. INDUSTRIAL PROPERTY VALUES PROTECTED BY STATUTE

1. PATENTS:

References: Fox, "Canadian Patent Law and Practice". 4th ed. (1969)  
Terrell, "Patents", 12th ed. (1971)  
Blanco-White, "Patents for Inventions", 4th ed. (1974)

(1) Introduction:

\*Statute of Monopolies, 21 Jac. I c. 3 s. 6; R.S.O. 1897 c. 323  
s.5  
\*British United Shoe v. Fussell, (1908), 25 R.P.C. 631, 649-652

(2) Subject matter:

Lane-Fox v. Kensington, (1892), 9 R.P.C. 413, 416  
\*Gottschalk v. Benson, (1972), 175 U.S.P.Q. 673  
\*G.E.C.'s Application, (1943), 60 R.P.C. 1, 4  
\*Burroughs' Application, [1974] R.P.C. 147, 154, 158-161  
Waldbaum's Application, (1972), 5 C.P.R. (2d) 162  
Tennessee Eastman v. Commissioner, [1974] S.C.R. 111  
Pollack's Application No. 839,690, (1972), 9 C.P.R. (2d) 283  
Joos v. Commissioner, [1973] R.P.C. 59

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\*Extracts of cases marked with an asterisk are included in the accompanying Materials on Industrial Property and Unfair Competition.



\*"Utility and Non-Statutory Subject Matter", Manual of Patent Office Practice (Information Canada Catalogue #S G 42-3/1974), Chapter 12

Palmer's Application, [1970] R.P.C. 597

Schering's Application, [1971] R.P.C. 383

Waldbaum's Application No. 961,392, (1972), 5 C.P.R. (2d) 162

Lawson v. Commissioner, (1970), 62 C.P.R. 101

(3) The patent specification:

\*Natural Colour v. Bioschemes, (1915), 32 R.P.C. 256, 269-270

Valensi v. British Radio, [1973] R.P.C. 337, 377

Minerals Separation v. Noranda Mines. (1952), 69 R.P.C. 81, 92-93

\*B.V.D. v. Canadian Celanese, [1937] S.C.R. 221, 230, 233, 236-237

Hoechst v. Gilbert, [1966] S.C.R. 189

(4) Novelty:

\*35 U.S. Code, s. 104

\*Electric and Musical Industries v. Lissen, (1939), 56 R.P.C. 23, 39, 41-43

(5) Obviousness:

\*35 U.S. Code, s. 103

Graham v. John Deere, (1965), 383 U.S. 1

\*Technograph v. Mills, [1969] R.P.C. 395, 404-5, 407-8; [1972] R.P.C. 346, 355, 361

\*Rado v. Tye, [1969] F.S.R. 563, 565-6

\*General Tire v. Firestone, [1971] R.P.C. 173, 245-6; [1972] R.P.C. 457, 482-483, 485, 499-500

\*Olin Mathieson v. Biorex, [1970] R.P.C. 157, 187-8

\*Martin v. Millwood, [1956] R.P.C. 125, 133-134, 139-141  
Dow's Patent, [1975] R.P.C. 165, 169

\*Wood v. Gowshall, (1937), 54 R.P.C. 37, 40

(6) Utility:

Societe Rhone-Poulenc v. Gilbert, (1967), 35 Fox Pat. C. 174; [1968] S.C.R. 950

Henriksen v. Tallon, [1965] R.P.C. 434, 442-443

Burton Parsons v. Hewlett-Packard, (1975), 17 C.P.R. (2d) 97

Metalliflex v. Rodi & Wienenberger, [1961] S.C.R. 117, 121-122

(7) Infringement:

- "McPhar v. Sharpe: A Post Mortem", (1967), 21 Bulletin of the  
Patent and Trademark Institute of Canada 66 (on reserve)  
Rodi v. Showell, [1969] R.P.C. 367  
\*Union Carbide v. Trans-Canada Feeds, [1966] Ex. C.R. 884,  
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\*Wilderman v. Berk, (1925), 42 R.P.C. 79, 88  
\*35 U.S. Code, s. 271  
Copeland-Chatterson v. Hatton, (1906), 10 Ex. C.R. 224  
\*Slater v. Payer, (1968), 38 Fox Pat. C. 139, 157, 163-4  
\*Dunlop v. Holborn, (1901), 18 R.P.C. 222

(8) The Paris Convention

2. COPYRIGHT:

References: Fox, "The Canadian Law of Copyright and Industrial  
Designs", 2nd ed. (1967)  
Copinger & Skone James, "Copyright", 11th ed. (1971)

(1) Introduction:

- The Berne and Universal Copyright Conventions  
\*Canadian Admiral v. Rediffusion, [1954] Ex. C.R. 382, 394  
Fortnightly v. United Artists, (1968), 392 U.S. 390

(2) Authorship and ownership:

- Hay v. Sloan, (1958), 12 D.L.R. (2d) 397  
Meikle v. Maufe, [1941] 3 All E.R. 144  
Jefferys v. Boosey, (1854), 4 H.L.C. 815, 993  
Twentieth Century v. Aiken, (1975), 186 U.S.P.Q. 65  
Gramophone v. Cawardine, [1934] 1 Ch. 450  
Vigneux v. Canadian Performing Right, [1943] S.C.R. 348, 361;  
[1945] A.C. 108  
Wood v. Boosey, [1867] L.R. 2 Q.B. 340  
Hartnett v. Pinkett, (1953), 103 L.J. 204  
Merchant Adventurers v. Grew, [1973] R.P.C. 1, 10

(3) Subject matter:

- \*Francis, Day & Hunter v. Twentieth Century Fox, [1939] 4 D.L.R.  
353, 358-361  
\*Ladbroke v. Hill, [1964] 1 All E.R. 465, 469, 475-478  
CAPAC v. CTV, [1968] S.C.R. 676

Goldstein v. California (1973), 412 U.S. 546  
Henscher v. Restawile, [1975] R.P.C. 31  
Warner Bros. v. CESM, (1971), 65 C.P.R. 215  
Cuisenaire v. South West, [1969] S.C.R. 208  
\*Donoghue v. Allied, [1938] 1 Ch. 106, 109-110  
\*Moreau v. St. Vincent, [1950] Ex. C.R. 198, 204-205, 207  
\*Football League v. Littlewoods, [1959] 2 All E.R. 546, 552,  
555-556

(4) Originality:

\*Copinger & Skone James, 11th ed., ss. 117, 124, 125, 130, 137  
Time v. Geis, (1968), 293 F. Supp. 130  
\*Walter v. Lane, [1900] A.C. 539, 548-9, 556  
Lipman v. Massachusetts, (1973), 176 U.S.P.Q. 449  
\*Macmillan v. Cooper, (1923), 40 T.L.R. 186, 188

(5) Scope of Protection:

\*Deeks v. Wells, [1931] 4 D.L.R. 533, 547; [1933] 1 D.L.R.  
353, 356-357  
Francis, Day & Hunter v. Bron, [1963] 2 All E.R. 16  
\*Hanfstaengl v. Baines, [1895] A.C. 20, 30-31  
Hawkes v. Paramount, [1934] 1 Ch. 593  
\*Cartwright v. Wharton, (1912), 25 O.L.R. 357, 362-363  
Chilton v. Progress, [1895] 2 Ch. D. 29  
\*Harman v. Osborne, [1967] 2 All E.R. 324, 328  
\*Nichols v. Universal Pictures, (1930), 45 F 2d. 119, 121  
\*Kantel v. Grant, [1933] Ex. C.R. 84, 87, 94-96  
Williams & Wilkins v. U.S., (1974), 180 U.S.P.Q. 49; (1975),  
184 U.S.P.Q. 705  
Hubbard v. Vosper, [1972] 1 All E.R. 1023, 1026-1028, 1031

3. INDUSTRIAL DESIGNS:

References: Fox, "Canadian Law of Copyright", 2nd ed. (1967),  
pp. 650-691  
Russell-Clarke, "Copyright in Industrial Designs"  
5th ed. (1974)

(1) Subject matter:

\*Hensher v. Restawile, [1975] R.P.C. 31, 60, 62  
\*35 U.S. Code, s. 171  
\*Cimon v. Bench Made, [1965] 1 Ex. C.R. 811, 828-833  
\*Industrial Designs Rules, P.C. 1954-1853, s. 11



Ware v. Anglo-Italian (No. 1), [1922] Macg. C.C. 346 (at  
Osgoode only: Put copy in library)  
King Features v. Kleeman, [1941] A.C. 417, 427  
Mazer v. Stein, (1954), 347 U.S. 201  
\*Re Clarke's Design, (1896), 13 R.P.C. 351, 358, 361  
\*Amp v. Utilux, [1972] R.P.C. 103, 107-110

(2) Novelty and Originality:

\*Saunders v. Weil, (1893), 10 R.P.C. 29, 33  
\*Dean's Rag Book v. Pomerantz, (1930), 47 R.P.C. 485, 491  
\*Clatworthy v. Dale, [1929] S.C.R. 429, 434-5  
\*Rosedale v. Airfix, [1957] R.P.C. 239, 244  
\*Kilvington v. Goldberg, (1957), 16 Fox Pat. C. 164  
Valor v. Main Gas, [1973] R.P.C. 871, 877

(3) Registration:

Melnor v. Lido, [1971] S.C.R. 72

(4) Infringement:

\*Re Bayer's Design, (1907), 24 R.P.C. 65, 76-7  
\*Walker v. Scott, (1892), 9 R.P.C. 482, 485

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## B. BUSINESS TORTS

### 1. PROTECTION OF INFORMATION:

References: Turner, "The Law of Trade Secrets" (1962)  
Fox, "Canadian Patent Law and Practice", 4th ed.  
(1969), Chapter 17

#### (1) Cases involving contractual or confidential relationships:

##### (a) Establishment of the relationship:

\*Triplex v. Scolah, (1938), 55 R.P.C. 21, 28  
Canadian Aero Services v. O'Malley, [1974] S.C.R. 592  
Hivac v. Park Royal, [1946] Ch. 169  
United Sterling v. Felton, [1973] F.S.R. 409  
Cranleigh v. Bryant, [1966] R.P.C. 81  
\*Saltman v. Campbell, (1948), 65 R.P.C. 203, 211-6  
\*Coco v. Clark, [1969] R.P.C. 41, 46-50  
Kewanee v. Bicron, (1974), 181 U.S.P.Q. 673

##### (b) The nature of the information sought to be protected:

Morris v. Gilman, (1943), 60 R.P.C. 20, 25  
Exchange Telegraph v. Central News, [1897] 2 Ch. 48  
Microtherm v. Percy, [1957] R.P.C. 207  
Church of Scientology v. Kaufman, [1973] R.P.C. 635,  
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##### (c) Liability of persons who have not dealt with the plaintiff:

Lord Ashburton v. Pape, [1913] 2 Ch. 469  
British Industrial Plastics v. Ferguson, (1941), 58  
R.P.C. 1  
\*Printers v. Holloway, [1965] R.P.C. 239, 252-253  
\*Restatement of Torts, s. 758  
\*Conmar v. Universal, (1949), 172 F. 2d. 150, 156  
\*Stevenson v. MacDonald, (1951), 68 R.P.C. 190, 195;  
(1952), 69 R.P.C. 10, 16  
Abernethy v. Hutchison, (1825), 1 H. & Tw. 28  
De Acosta v. Brown, (1944), 146 F. 2d. 408

##### (d) Effect of publication:

Warner-Lambert v. Reynolds, (1959), 178 F. Supp. 655  
Mustad v. Dosen, [1963] R.P.C. 41

- \*Seager v. Copydex, [1967] R.P.C. 349, 367-8
- \*International v. Kollar, [1968] 1 O.R. 669, 676
- Reliable Toy v. Collins, (1950), 13 C.P.R. 53
- Winston v. M.M.M., (1965), 146 U.S.P.Q. 422

(2) Cases involving unfair or unlawful conduct: misappropriation:

- \*Beaudesert Shire Council v. Smith, (1966), 40 A.L.J.R. 211, 214-215; 120 C.L.R. 145
- Tuttle v. Buck, (1909), 119 N.W. 946
- Morrison v. N.B.C., (1965), 266 N.Y.S. 2d. 406
- \*DuPont v. Christopher, (1970), 431 F. 2d. 1012
- \*Victoria Park v. Taylor, (1937), 58 C.L.R. 479, 494, 496-8, 508-9
- \*International News Service v. Associated Press, (1918), 248 U.S. 215, 240, 250, 257, 259, 262-3
- \*Cheney v. Doris Silk, (1929), 35 F. 2d. 279
- \*Capitol Records v. Erickson, (1969), App., 82 Cal. Rptr. 798
- Eldon v. Reliable Toy, [1966] 1 O.R. 409
- Trudel v. Clairol, (1975), 16 C.P.R. (2d) 203, 207-208
- Therapeutic v. Life Aid, [1968], 2 Ex. C.R. 605
- \*Institut National v. Chateau Gai, (1969), 57 C.P.R. 93, 148-151; (1974), 14 C.P.R. (2d) 1, 14
- Vapor v. MacDonald, [1972] F.C. 1156, 1173-5

2. TRADE MARKS, TRADE NAMES, AND THE ACTION FOR PASSING OFF:

References: Fox, "Canadian Law of Trade Marks", 3rd ed., (1972)  
Kerly, "Trade Marks and Trade Names", 10th ed. (1972)

(1) Goodwill:

- \*Commissioners of Inland Revenue v. Muller, [1901] A.C. 217, 223-5, 235-6
- Leather Cloth v. American Leather Cloth, (1863), 4 De G.J. & Sm. 137
- Reddaway v. Banham, [1896] A.C. 199
- \*Singer v. Loog, (1880), 18 Ch. D. 395, 412
- \*Haig v. Forth Blending, (1953), 70 R.P.C. 259, 261

(2) Trade Marks Act s. 7 (b), (c) and the elements of passing off:

(a) Length of time plaintiff has traded:

- \*Licensed Victuallers v. Bingham, (1888), 38 Ch. D. 139, 142-143



Stannard v. Reay, [1967] R.P.C. 589  
Maxwell v. Hogg, (1867) L.R. 2 Ch. App. 307  
M.G.M. v. Lee, (1963), 212 Cal. App. 23  
Chandon v. San Marino, (1964), 335 F. 2d 531

(b) Territorial extent of plaintiff's reputation:

\*Brestian v. Try, [1958] R.P.C. 161, 170, 173  
United Drug v. Rectanus (1918), 248 U.S. 90  
Stork Restaurant v. Sahati, (1948), 166 F 2d. 348  
\*Ewing v. Buttercup, (1917), 34 R.P.C. 232, 237, 239  
Sund v. Beachcombers, (1961), 25 D.L.R. 2d. 54  
Levitz v. Levitz, (1972), 5 C.P.R. 2d. 13  
\*Bernardin v. Pavilion, [1967] R.P.C. 581, 584, 588  
Maison Prunier v. Prunier's Restaurant, (1936), 288  
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Barratt v. Auto Electric, (1954), 14 Fox Pat. C. 143

(c) Risk of Damage:

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\*Day v. Brownrigg, (1878), 10 Ch. D. 294, 304-305  
\*McCulloch v. May, (1948), 65 R.P.C. 58, 64  
\*Walter v. Emmott, (1885), 54 L.J. Ch. 1059, 1061-1065  
Fisher v. Star, (1921), 132 N.E. 133  
Shaw v. Golden Harvest, [1972] R.P.C. 559

(d) Similarity of activities:

\*Yale v. Robertson, (1928), 26 F 2d. 972, 973-974  
\*Harrods Ltd. v. R. Harrod Ltd., (1923), 41 R.P.C. 74,  
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Notre Dame v. Twentieth Century-Fox, (1965), 259 N.Y.S.  
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Sim v. Heinz, [1959] R.P.C. 75  
\*Krouse v. Chrysler, (1974), 1 O.R. (2d) 225  
Lugosi v. Universal Pictures, (1972), 172 U.S.P.Q. 541  
Booth v. Colgate-Palmolive, (1973), 179 U.S.P.Q. 819  
Annabel's v. Schock, [1972] R.P.C. 838, 844  
Commentary, (1974), 52 Can. Bar Rev. 297

(e) Similarity of marks:

\*Seixo v. Provezende, (1866), L.R. 1 Ch. App. 192, 194-7  
Tartan v. Carling, [1970] S.C.R. 323  
\*Saville v. June Perfect, (1941), 58 R.P.C. 147, 160-163

(f) Nature and extent of recognition and of relief:

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Reddaway v. Banham, [1896] A.C. 199

\*Treasure Cot v. Hamley, (1950), 67 R.P.C. 89, 91, 93

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Fawcett v. Popular Mechanics, (1937), 92 F. 2d. 181

\*Office Cleaning Services, Ltd. v. Westminster  
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\*Burberrys v. Cording, (1909), 26 R.P.C. 693,  
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\*Havana Cigar v. Oddenino, (1923), 41 R.P.C. 47,  
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Bollinger v. Costa Brava, [1960] R.P.C. 16;  
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\*Vine Products v. Mackenzie, [1969] R.P.C. 1,  
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\*Chivers v. Chivers, (1900), 17 R.P.C. 420, 429-430

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\*Huntley v. Reading, (1893), 10 R.P.C. 277, 280-281

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\*Lever v. Goodwin, (1887), 4 R.P.C. 492, 506

Wampole v. Hervay, [1929] Ex. C.R. 78

Haig v. Forth, (1953), 70 R.P.C. 259, 261

\*Parke, Davis v. Empire, [1964] S.C.R. 351, 354,  
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\*Edge v. Niccolls, (1911), 28 R.P.C. 582, 588, 594

Sears v. Stiffel, (1964), 376 U.S. 225

\*Compco v. Day-Brite, (1964), 376 U.S. 234, 237-9  
Boston Hockey Assn. v. Dallas Cap, (1973), 179  
U.S.P.Q. 480

(3) Registration of trade marks:

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Manhattan v. Princeton, (1972), 4 C.P.R. (2d) 6  
Porter v. Don the Beachcomber, [1966] Ex. C.R. 982  
Wian v. Mady, [1965] 2 Ex. C.R. 3  
Marineland v. Marine Wonderland, [1974] 2 F.C. 558

(4) The rights acquired by trade mark registration:

(a) Section 20: bona fide use:

\*Bonus v. Essex, [1965] 1 Ex. C.R. 735, 753-754  
Burger King v. Hoots, (1968), 403 F 2d. 904  
Joseph Rodgers & Sons Ltd. v. W.N. Rodgers & Co., (1924),  
41 R.P.C. 277  
The Hurlbut Company v. The Hurlburt Shoe Company, [1925]  
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Talbot v. Wembley, (1886), 3 R.P.C. 276  
\*Stone v. Steelace, (1929), 46 R.P.C. 406, 416-419

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\*Clairol v. Thomas, [1968] 2 Ex. C.R. 552, 566, 568-570  
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Liverpool Cable's Application, (1929), 46 R.P.C. 99, 124  
Great Lakes v. The Noshery, [1968] 2 Ex. C.R. 622, 636  
Home Juice v. Orange Maison, [1970] S.C.R. 942  
Somerlite v. Brown, (1934), 51 R.P.C. 205, 239  
Sarco v. Sarco, [1968] 2 Ex. C.R. 537, 542  
"Weston" Trade Mark, [1968] R.P.C. 167, 184  
"Bostitch" Trade Mark, [1963] R.P.C. 183, 197  
"GE" Trade Mark, [1970] R.P.C. 339; [1973] R.P.C. 297



- \*Lea's Application, (1913), 30 R.P.C. 216, 221-222
- \*Aladdin v. Canadian Thermos, [1969] 2 Ex. C.R. 80, 113-114, 119-120

(b) Effect of assignment:

- Pinto v. Badman, (1891), 8 R.P.C. 181, 191-195
- Globelegance v. Sarkissian, [1974] R.P.C. 603, 605
- \*Lacteosote v. Alberman, (1927), 44 R.P.C. 211, 223-225
- Dunlop v. Booth, (1926), 43 R.P.C. 139, 145-146
- Champagne Heidsieck v. Buxton, (1930), 47 R.P.C. 28
- A & P v. Registrar, [1945] Ex. C.R. 233, 242
- Magder v. Breck's, (1975), 17 C.P.R. (2d) 201
- Leather Cloth v. American Leather Cloth, (1863), 4 De G.J. & S. 137; (1865), 11 H.L.C. 523, 534-535

(c) Effect of licensing:

- \*G.E. Trade Mark, [1969] R.P.C. 418, 448, 454; [1970] R.P.C. 339, 372, 395; [1973] R.P.C. 297, 336
- Hensher v. Restawile, [1972] F.S.R. 557, 561-562
- \*Coles v. Need, (1933), 50 R.P.C. 379, 386-388
- Coca-Cola v. Pepsi-Cola, [1938] Ex. C.R. 263, 291-292
- Good Humor v. Good Humor, [1937] Ex. C.R. 61, 73-74
- Gray Rocks v. Snowy Eagle, (1972), 3 C.P.R. (2d) 9
- Sund v. Beachcombers (1961), 27 D.L.R. 2d. 434
- Robinson v. Finlay, (1878), 9 Ch. D. 487
- Gattuso v. Gattuso, [1968] 2 Ex. C.R. 609
- \*Bowden Wire v. Bowden Brake, (1914), 31 R.P.C. 385, 392
- Dubiner v. Cheerio, [1965] 1 Ex. C.R. 524, 538-544, 556-560; [1966] S.C.R. 206, 221-222
- Cheerio v. Cheerio, [1965] 1 Ex. C.R. 562
- Weight Watchers v. Weight Watchers, (1973), 8 C.P.R. (2d) 118

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- R. v. Contour Slim, (1973), 9 C.P.R. (2d) 107
- R. v. Cunningham, (1974), 13 C.P.R. (2d) 244
- Hubbuck v. Wilkinson, [1899] 1 Q.B. 86
- \*S. & S. v. Rowell, [1966] S.C.R. 419, 424-425

C. RESTRAINTS ON COMPETITION

1. Statutory limits on the rights of industrial property owners:

(a) The United Kingdom:

Patents Act, 1949, ss. 37-41  
Registered Designs Act, 1949, s. 10  
Copyright Act, 1956, s. 8  
Restrictive Trade Practices Act, 1956, ss. 6, 8, 8A, 20, 21  
Fair Trading Act, 1973, ss. 56, 73, 74, 90(5), 101, 126  
Treaty of Rome, Articles 5, 30, 35, 36, 85, 86  
Application des Gaz v. Falks [1974] F.S.R. 355

(b) The United States:

Sherman Act, 1890, ss. 1, 2  
Clayton Act, 1914, ss. 3, 4  
Hazeltime v. Zenith, (1969), 395 U.S. 100  
Siegel v. Chicken Delight, (1971), 448 F. 2d 43  
U.S. v. Arnold, Schwinn, (1967), 388 U.S. 365  
Federal Trade Commission Act, 1914, s. 5 as amended  
Pfizer v. F.T.C., (1968), 401 F. 2d. 574

(c) Canada:

Patent Act, ss. 19, 41, 58, 66-73  
Formea v. Polymer, [1968] S.C.R. 754  
Libby-Owens-Ford v. Ford, [1970] S.C.R. 833  
Peterson v. Plastiseal, (1973), 8 C.P.R. (2d) 222, 242-245; (1974), 14 C.P.R. (2d) 48, 52  
Copyright Act, ss. 13-16, 19, 48-50  
Trade Marks Act, s. 50  
Combines Investigation Act, ss. 2, 29, 32, 33  
Weidman v. Schragge, (1912), 46 S.C.R. 1

2. Validity and enforceability of restraints imposed by owners of industrial property:

(1) As against someone (Brutus) in contractual relationship with the industrial property owner:

(a) Sales sub modo:

Nordenfelt v. Nordenfelt, [1893] 1 Ch. 630, 649;  
[1894] A.C. 535

- \*Copeland Chatterson v. Hatton, (1906), 10 Ex. C.R. 224-237; (1906), 37 S.C.R. 651
- Stephens v. Gulf Oil, (1974), 3 O.R. 2d 241, 255, 258-259
- \*Incandescent v. Cantelo, (1895), 12 R.P.C. 262, 264-265
- Darcy v. Allein, (1602), 77 E.R. 1260
- Motion Picture Patents v. Universal Film, (1917), 243 U.S. 502

(b) License restraints:

- Columbia v. Murray, (1922), 39 R.P.C. 239, 241
- \*Tool Metal v. Tungsten, (1955), 72 R.P.C. 209, 213-214, 218
- Mouchel v. Cubitt, (1907), 24 R.P.C. 194

(2) As against someone (Cassius) who acquires goods from Brutus who was bound by a restraint:

(a) Sales sub modo to Brutus:

- \*National Phonograph v. Menck, (1911), 28 R.P.C. 229, 245-246
- Lacteosote v. Alberman, (1927), 44 R.P.C. 211, at p. 220

(b) License restraints imposed on Brutus:

- MMM v. Geerpres, [1974] R.P.C. 35, 40-41
- Beecham v. International, [1968] R.P.C. 129
- Badische v. Isler, (1906), 23 R.P.C. 173, at p. 180

3. Loss of industrial property rights:

(1) Denial of relief for infringement:

(a) Ex dolo malo non oritur actio:

- R.B.M. v. Philips, (1973), 9 C.P.R. (2d) 46; 10 C.P.R. (2d) 23

(b) The misuse defence

- \*Morton Salt v. Suppiger, (1942), 314 U.S. 488
- Rodi v. Watchstraps, (1958), 18 Fox Pat. C. 75, 83-84
- Continental Paper Bag v. Eastern, (1908), 210 U.S. 405, 429-430
- Zeiss v. V.E.B., (1969), 161 U.S.P.Q. 414



(2) Public interest:

Beloff v. Pressdram [1973] R.P.C. 765

City of Milwaukee v. Activated Sludge, (1934), 69 F. 2d  
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